

EXHIBIT 1

(Addendum, containing specific Exhibit pages referenced in Plaintiff's Opposition to Motion for Summary Judgment (Docket #85) and the accompanying Declaration of Ronald Wilcox (Docket #85-1), but inadvertently omitted from the earlier e-filing)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DONNA GARCIA,)
Plaintiff,)
vs.) No. 11-01253 EMC
RESURGENT CAPITAL FINANCIAL)
SERVICES, INC., LVNV FUNDING,)
LLC, THE BRACHFELD LAW GROUP,)
P.C., et al.,)
Defendants.)

VOLUME I

**DEPOSITION OF THE BRACHFELD LAW GROUP, PC'S CORPORATE
DESIGNEE PURSUANT TO FRCP 30(B)(6)**

(JONATHAN BIRDT, ESQ.)

Toluca Lake, California

Tuesday, November 1, 2011

REPORTED BY:

KRISTIN L. MATTSEN
CSR NO. 12897

JOB NO.
68357WIL/A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

1 APPEARANCES:

2

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- and -
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AND LVNV FUNDING, LLC:

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Also Present:

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BETTY GONZALEZ (Present where noted)

25

JONATHAN BIRDT, ESQ., VOL. 1 - November 1, 2011
GARCIA VS. RESURGENT CAPITAL FINANCIAL SERVICES

1 A Well, I think the problem we have is the
2 confusion in accounts and the subsequent initiation of
3 contact by Ms. Garcia wherein she admitted it was her
4 debt, so certainly we have an unusual fact pattern here,
5 but I don't believe anything violates our policies or
6 procedures.

7 Q I take it these attempts to continue to collect
8 the debt from Ms. Garcia in November of 2010 were also
9 consistent with Resurgent's policies?

10 A I don't know.

11 Q When attempting to collect in November 2010
12 from Ms. Garcia, you were doing so for Resurgent; isn't
13 that correct?

14 A No.

15 Q Who were you doing it for?

16 A It appears LVNV.

17 Q And where do you see that?

18 A On the first page of the notes, page -17.

19 Q So what Bates-stamped page are you on?

20 A Page -17.

21 Q So where on page -17 does it show you that
22 Brachfeld was attempting to collect for LVNV in November
23 of 2010?

24 A I believe I've actually redacted out the client
25 information, and I could unredact the part that says

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1 Garcia?

2 Q There are telephone calls placed by Brachfeld
3 to the phone No. (707) 263-9309; isn't that right?

4 A There are.

5 Q Are you able to total up those calls on
6 Bates-stamped pages -26 and -27 and let us know what
7 your total is?

8 A So you want just phone calls specifically
9 identified as to that number or calls placed to Donna
10 Garcia?

11 Q Why don't we first start with the calls placed
12 to that telephone number.

13 A Okay. I count 38 calls to that phone number in
14 an attempt to collect the freezer debt.

15 Q And that is between the dates November 24th,
16 2010, and February 10th, 2011?

17 A Yes.

18 Q Has Brachfeld Law Group spoken to any of the
19 individuals whose initials are in these notes regarding
20 these telephone calls placed to the (707) 263-9309
21 number?

22 A No.

23 Q Do you make some distinction between telephone
24 calls placed to this telephone number and telephone
25 calls placed to Ms. Garcia?

EXHIBIT 2

(Addendum, containing specific Exhibit pages referenced in Plaintiff's Opposition to Motion for Summary Judgment (Docket #85) and the accompanying Declaration of Ronald Wilcox (Docket #85-1), but inadvertently omitted from the earlier e-filing)

UNITED STATES DISTRICT COURT
DISTRICT OF CALIFORNIA
SAN JOSÉ DIVISION

DONNA GARCIA,

Plaintiff,

C.A. No.

11-01253 EMC

vs.

RESURGENT CAPITAL FINANCIAL SERVICES, INC.; LVNV
FUNDING, LLC; THE BRACHFELD LAW GROUP, P.C., ET AL.,

Defendants.

VIDEOTAPED

DEPOSITION OF: JEAN PAUL TORRES

DATE: November 9, 2011

TIME: 11:10 a.m.

LOCATION: A. WILLIAM ROBERTS, JR. & ASSOCIATES
1200 Woodruff Road, Suite A-3
Greenville, South Carolina

TAKEN BY: Counsel for Plaintiff

REPORTED BY: KATHY P. TAYLOR,
Registered Professional Reporter

A. WILLIAM ROBERTS, JR. & ASSOCIATES

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20 (Index at rear of transcript)

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1 A. Per our policies, it was supposed to be
2 forwarded. If it has, it should be attached to our
3 exhibits, but I can't recall at the moment.

4 Q. Did you review the computer system before
5 coming here today to see if this letter was forwarded
6 to Resurgent Capital?

7 A. I did review our system, and I did look at
8 all the letters, but I can't remember if this
9 particular one was or was not forwarded.

10 Q. In your review of the system, did you
11 identify letters that were forwarded to Resurgent by
12 the various collection agencies that have handled
13 this account?

14 A. Yes.

15 Q. Which letters were forwarded to Resurgent?

16 A. There was a letter from a collection
17 agency, Academy, and Brachfeld, that I can currently
18 recall.

19 Q. And where did you find that information?

20 A. That information was stored in our imaging
21 system called OnBase.

22 Q. So were the actual letters present in
23 OnBase?

24 A. Yes. There were numerous letters in
25 OnBase.

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1 A. No.

2 Q. I take it, then, you didn't speak with him
3 personally?

4 A. No. I did not.

5 Q. There was a reference back on Exhibit 1,
6 R-72, to an AMCS. What is that?

7 A. AMCS is the name of the system where this
8 information is housed.

9 Q. When -- when Resurgent placed this LVNV
10 Funding account with Brachfeld, what information did
11 Resurgent provide the Brachfeld office?

12 A. The consumer name, address, account
13 information, balances, the type of account, things
14 like that.

15 Q. Did Resurgent provide to Brachfeld these
16 letters that had been received from Ms. Garcia that
17 appear in Resurgent's OnBase system?

18 A. Yes. Those letters are -- would have been
19 forwarded to Brachfeld Law Group.

20 Q. Okay. So I take it the Sears, CitiCard,
21 and Academy Collections cease-and-desist letters that
22 Ms. Garcia would have all been transferred to
23 Brachfeld when Resurgent gave Brachfeld the account?

24 A. Well, those -- I believe those letters were
25 sent or received after Brachfeld had the account, and

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1 then they were forwarded at the time of receipt.

2 Q. Okay. Let's take a look back at Exhibit,
3 R-72. It's my understanding that on October 19th,
4 '06, and October 25th, '06, is when Resurgent noted
5 the Sears, CitiCard, and Academy Collections
6 cease-and-desist letters. Is that right?

7 A. Correct. I believe so, yes.

8 Q. All right. So when did Resurgent give
9 Brachfeld the account?

10 A. I believe it was in September or October
11 of '06. I don't remember the exact date.

12 Q. I see. Okay. And I think just to clarify
13 things, make the record clear, the notation on
14 Exhibit 1, R-72, on October 25th, 2006, where it
15 says: Outside and legal written in cease and desist
16 received, that would have been a cease and desist
17 Resurgent received from Brachfeld, right?

18 A. That is correct.

19 Q. Okay. So at some point before
20 October 25th, '06, Resurgent would have transferred
21 this LVNV account to Brachfeld.

22 A. That is correct.

23 Q. And at that time, the cease-and-desist
24 letters that were noted on October 19th, '06, at 1:20
25 p.m. and 12:14 p.m. would have been sent to Brachfeld

1 by Resurgent, as well.

2 A. Yes.

3 Q. And we believe those to be the Sears,
4 CitiCard, and Academy Collections cease-and-desist
5 letters.

6 A. Yes. That is correct.

7 Q. Does Resurgent sue on time-barred debts?

8 A. Resurgent doesn't sue anybody, sir.

9 Q. Does LVNV sue on time-barred debts?

10 A. I really don't understand what you mean by
11 "time-barred debts".

12 Q. Sure. Does L -- well, let's back up a
13 moment.

14 Does LVNV use Brachfeld to bring lawsuits
15 in California to attempt to collect charged-off
16 consumer debts?

17 A. Yes.

18 Q. Does LVNV currently still use Brachfeld in
19 California to bring lawsuits to try to collect
20 charged-off consumer debts?

21 A. Yes.

22 Q. Does Resurgent have any policy whereby it
23 instructs Brachfeld not to sue on LVNV debts that are
24 past their four-year statute of limitations in
25 California?